

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPLICANT: WINARSKI et al. DOCKET NO.: 6109P2814
SERIAL NO: 09/662,968 EXAMINER: VIG, N.
FILED: 09/15/2000 ART UNIT: 3629
TITLE: AN INTERNET BASED SYSTEM FOR MANAGING A NETWORK OF
ELECTRONIC ADVERTISING BILLBOARDS THROUGH A
WIRELESS TELECOMMUNICATIONS SYSTEM

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P.O. Box 1450
Alexandria, VA 22313-1450

Weiss & Moy, P.C.
4204 N. Brown Avenue
Scottsdale, AZ 85251-3989

July 22, 2009

I hereby certify that on the 22nd day of July, 2009, this correspondence is being filed electronically on the EFS-Website and addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450.



Jeffrey D. Moy

APPEAL BRIEF

Dear Sir:

This Appeal Brief is filed in response to a Notice of Appeal filed on February 27, 2009. The Notice of Appeal was filed in response to an Examiner's Final Office Action dated October 28, 2008 in regards to the above identified patent application. A three month extension of time is filed herewith.

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REAL PARTY IN INTEREST

The real parties in interest are the Appellants, Tyson Y. Winarski and Jeff D. Myers.

RELATED APPEALS AND INTERFERENCES

There are no related appeals and/or interferences pending.

STATUS OF CLAIMS

Claims 1-9 were filed in a patent application on September 15, 2000.

In an Office Action dated September 9, 2003, the Examiner rejected Claim 1-9.

In response, to the Office Action dated September 9, 2003, Claim 1 was amended, Claims 7-9 cancelled and new Claim 10 was added in an Amendment Letter dated March 3, 2004.

In a Final Office Action dated May 19, 2004, the Examiner rejected Claims 1-6 and 10.

In response to the Final Office Action dated May 19, 2004, Claims 1-6 and 10 were cancelled and new Claims 11-18 were added in an Amendment Letter with a Request for Continued Examination dated September 7, 2004.

In an Office Action dated December 30, 2004, the Examiner rejected Claims 11-18.

In response to the Office Action dated December 30, 2004, Claims 11 was amended and Claim 17 was cancelled in an Amendment Letter and Petition to Revive dated August 8, 2006.

In a Final Office Action dated February 6, 2007, the Examiner rejected Claims 11-16 and 18.

In response to the Final Office Action dated February 6, 2007, Claim 11 was amended in an Amendment Letter with a Request for Continued Examination dated June 20, 2007.

In an Office Action dated September 6, 2007, the Examiner rejected Claims 11-16 and 18.

In response to the Office Action dated September 6, 2007, Claims 11 was amended in an Amendment Letter dated December 11, 2007.

In a Final Office Action dated March 17, 2008, the Examiner rejected Claims 11-16 and 18.

In response to the Final Office Action dated February 17, 2008, Applicants filed a Notice of Appeal.

On August 9, 2008, Applicant filed an Appeal Brief.

In response to the Appeal Brief, the Examiner reopened prosecution and mailed a Final Office Action dated October 28, 2008 rejecting Claims 11-16 and 18.

In response to the Final Office Action dated October 28, 2008, Applicants filed a Notice of Appeal.

Therefore, Claims 11-16 and 18 are pending and being appealed.

STATUS OF AMENDMENTS

All Amendments Letters have been entered. No Amendment Letter was submitted in response to the Final Office Action dated February 17, 2008 or subsequent thereto.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The independent claim involved in this appeal is Claim 11.

I. Independent appealed Claim 11 recites:

An apparatus for a wireless electronic billboard commerce system comprised of:

a plurality of electronic billboards 130 wherein each electronic billboard 130 comprises: **(See Figure 1, and Specification Page 8, lines 16-18)**

a video display 201 for showing a video stream; **(See Figure 2, Specification Page 9, Lines 9-19)**

a billboard computer 202 adapted to process digital files to show on said video display as a video stream, said billboard computer 202 is coupled to and controls said video display 201; and **(See Figure 2, Specification Page 10, Lines 12-16)**

a billboard antenna 203 coupled to said billboard computer 202 for transferring video data to said billboard computer 202; **(See Figure 2, Specification Page 10, Lines 12-16)**

a local Ethernet 124 coupled to a global computer network 115, wherein said local Ethernet 124 comprises: **(See Figure 1, Specification Page 8, Lines 9-12)**

a main computer 123 to manage said local Ethernet 124; **(See Figure 1, Specification Page 8. Lines 10-11)**

a communication system 125 to wirelessly communicate with the plurality of electronic billboards 130, wherein the communication system 125 comprises: **(See Figure 1, Specification Page 8, Lines 16-18)**

a communication server 122 coupled to the main computer system 123 for storing data to transmit; and **(Figure 1, Specification Page 8, Lines 11-19)**

a transmission antenna 126/127 coupled to said communication server 122 to transmit the data and receive transmitted data; **(Figure 1, Specification Page 8, Lines 16-22)**

a web server 121 coupled to the main computer 123 for hosting a website accessible from the global computer network; **(Figure 1, Specification Page 8, Lines 14-15)**

a database server 120 coupled to the main computer 123, the database server 120 comprising: **(Figure 1, Specification Page 8, Lines 12-14)**

a registration system 304 to allow a party to become a registered user of said wireless electronic billboard commerce system; **(Figure 3, Specification Page 10, Lines 17-19)**

login system 302 coupled to the registration system 304 to allow registered users access to said wireless electronic billboard commerce system, wherein the login system 302 will send a security alert to the main computer 123 when a login ID and password are invalid multiple times within a predefined time frame to freeze an associated account; **(Figure 3, Specification Page 10, Lines 16-19)**

an account system 316 coupled to said login system 302 to allow the registered user to view and update financial activity, billboard purchases, contact information, and billing information; **(Figure 3, Specification Page 10, Lines 16-20)**

an ad creation system 314 coupled to the login system 302 for allowing said register user to create new video advertisements within said wireless electronic billboard commerce system to display on at least one of said plurality of electronic billboards 130; and **(Figure 3, Specification Page 10, Lines 16-20)**

an access purchase system 310 that provides a table of billboard information, said table of billboard information includes a listing of available locations, a listing of available time periods, and a listing of prices, said access purchase system searches a database to determine if said electronic billboard 130 is available to display said advertisement at a requested location and a requested time; **(Figure 3, Specification Page 10, Lines 16-19)**

a video advertisement 802 stored as a digital file in the database server 120, said digital file is uploaded to said main computer 123 through said global computer network 115, said main computer 123 transfers

said digital file to said communication system **125**, said communication system **125** transmits said digital file as a signal, said billboard antenna **203** receives said signal, said billboard computer **202** processes said signal, said billboard computer **202** shows said signal on said video display **201** as a video stream. **(Figure 3 and 8, Specification Page 10, Lines 16-19 and Page 14, Lines 13-23)**

II. Dependent appealed claims argued separately:

Dependent Claims 12-16 and 18 further detail the components of Claim 11.

Claim 12 further describes that a satellite receives the digital file from said communication server and transmits the digital file to the billboard antenna. **(Figure 1, Specification Page 8, Lines 16-23)**

Claim 13 describes that the display is a flat panel electroluminescent display. **(Figure 2, Specification Page 9, Lines 9-16)**

Claim 14 describes that the display is a liquid crystal display. **(Figure 2, Specification Page 9, Lines 9-16)**

Claim 15 describes that the display is a light emitting diode display. **(Figure 2, Specification Page 9, Lines 9-16)**

Claim 16 describes that a web-site is contained on the main computer and is accessible on the global computer network. **(Figure 4, Specification Page 11, Lines 6-9)**

Claim 18 discloses an upload database wherein the access purchase system provides an upload code for the digital file when the advertisement is purchased, the main computer accesses the upload database to determine if the upload code is acceptable and transfers the digital file to the communications system when the upload code is verified. **(Figure 7, Specification Page 13, Lines 17-24)**

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

I.) Is the Examiner's rejection of pending Claims 11-16 and 18 as being unpatentable over U.S. Patent No. 7,038,637 issued to Eller et al. in view of U.S. Patent No. 5,884,181 issued to Hunter and U.S. Patent 6,167,382 issued to Sparks properly made and well founded?

ARGUMENT

The Examiner's rejections of Claims 11-16 and 18 are not well-founded and should be reversed.

I. Eller et al. in view of Hunter and Sparks does not disclose

several of the features claimed by Applicants.

Applicants wireless electronic billboard commerce system has a local Ethernet coupled to a global computer network, wherein said local Ethernet has a main computer to manage said local Ethernet. Applicants' claimed local Ethernet has a plurality of different servers and functions. The local Ethernet has a communication system to wirelessly communicate with the plurality of electronic billboards, a web server coupled to the main computer for hosting a website accessible from the global computer network; and a database server coupled to the main computer. In contrast, as shown in Figure 4 of Eller, Eller has an ebillboard.net server direct connected to the internet and a billboard401.com server direct coupled to the internet. Eller does not use a local Ethernet to control and manage the plurality of servers.

The Examiner further contends that a local Ethernet is known to those skilled in the art. Local Ethernets are not what Applicants are claiming. Applicants are using a local Ethernet to transmits and show a digital file on one of a plurality of video displays. Nowhere is this shown in the prior art.

The Examiner contends that Eller in view of Hunter discloses a local Ethernet comprising a main computer to manage the local Ethernet. Applicants respectfully disagree. Hunter discloses Web server 40 which is connected to a security router 50. If access is

granted, the security router then communicates with a review schedule and purchase time module 60. The module 60 allows one to download an ad to the module 70. Nowhere in Hunter are all of the servers and modules controlled by a single main computer as claimed by Applicants.

Applicants use a database server. The database server of Applicants' claimed invention has **an ad creation system coupled to the login system for allowing said register user to create new video advertisements within said wireless electronic billboard commerce system to display on at least one of said plurality of electronic billboards**. The Examiner contends that Eller et al. discloses an ad creation system. However, Eller only discloses that a prepackaged software system may be used or that a user may download a program from the billboard provider to help create an ad (see column 3, lines 40-44). The prepackaged software is software that a user must buy at a store such as Microsoft Photoshop and the like. This software is then loaded onto a user's computer or downloaded onto a user's computer. Nowhere does it disclose that the system has an ad creation system that forms a part of the login system that allows the register user to create new video advertisements within the wireless electronic billboard commerce system. The prior art only discloses that the advertisement is created external to the wireless electronic billboard commerce system in a user's computer. The present invention simplifies the

process by having a single system where one can produce and display the advertisement.

The Examiner further contends that Sparks teaches creating an ad on the system. Applicants respectfully disagree. Sparks discloses a server having low resolution images. The client at a remote site may order each of a series of images from the low resolution image database, and may then assemble these images and text into a marketing piece. **Once assembly is complete, the client orders the system proprietor to produce the marketing piece according to the client's specifications.** Thus, in Sparks, the client does not create any video advertisement. In Sparks, the user just gives the system proprietor certain specifications and the system proprietor creates a marketing piece. Nowhere in Sparks does it disclose that the system has an ad creation system that forms a part of the login system that allows the register user to create new video advertisements within the wireless electronic billboard commerce system.

To further distinguish Applicants' claimed invention from the cited prior art, in Claim 18 Applicants claim an upload database wherein the access purchase system provides an upload code for the digital file when the advertisement is purchased. The main computer accesses the upload database to determine if the upload code is acceptable. The main computer transfers the digital file to the communications system when the upload code is verified.

Thus, in Applicants' claimed invention there is an automated system for verification of the uploaded advertisement.

Eller does disclose that the user may upload the advertisement to a central location for approval by the billboard provider. However, Eller does not disclose how this approval process will work. In Eller it appears that the billboard provider will review the advertisement. Thus, this is a manual process. In contrast, Applicants' process is automated. In Applicants' system, the user will be given an upload code upon purchasing an advertisement. The main computer accesses the upload database to determine if the upload code is acceptable. The main computer transfers the digital file to the communications system only when the upload code is verified. Such an automated verification system is not disclosed by any of the prior art references.

CONCLUSION

For the reasons stated above, Appellants believe that the claimed invention clearly is patentably distinct over the cited references and that the rejections under 35 U.S.C. §103(a) are not well-founded. Hence, Appellants respectfully urge the Board to reverse the Examiner's rejections.

No additional fee or extension of time is believed to be required; however, in the event an additional fee or extension of time is required, please charge that fee or extension of time

requested to our Deposit Account 23-0830.

Respectfully Submitted,



Jeffrey D. Moy
Reg. No. 39,307
WEISS & MOY, P.C.
(480) 994-8888
ATTORNEY FOR APPELLANTS

CLAIMS APPENDIX

Claim 1 (Cancelled).

Claim 2 (Cancelled).

Claim 3 (Cancelled).

Claim 4 (Cancelled).

Claim 5 (Cancelled).

Claim 6 (Cancelled).

Claim 7 (Cancelled).

Claim 8 (Cancelled).

Claim 9 (Cancelled).

Claim 10 (Cancelled).

Claim 11. An apparatus for a wireless electronic billboard commerce system comprised of:

a plurality of electronic billboards wherein each electronic billboard comprises:

a video display for showing a video stream;

a billboard computer adapted to process digital files to show on said video display as a video stream, said billboard computer is coupled to and controls said video display; and

a billboard antenna coupled to said billboard computer for transferring video data to said billboard computer;

a local Ethernet coupled to a global computer network, wherein said local Ethernet comprises:

a main computer to manage said local Ethernet;

a communication system to wirelessly communicate with the plurality of electronic billboards, wherein the communication system comprises:

a communication server coupled to the main computer system for storing data to transmit; and

a transmission antenna coupled to said communication server to transmit the data and receive transmitted data;

a web server coupled to the main computer for hosting a website accessible from the global computer network;

a database server coupled to the main computer, the database server comprising:

a registration system to allow a party to become a registered user of said wireless electronic billboard commerce system;

login system coupled to the registration system to allow registered users access to said wireless electronic billboard commerce system, wherein the login system will send a security alert to the main computer when a login ID and password are invalid multiple times within a predefined time frame to freeze an associated account;

an account system coupled to said login system to allow the registered user to view and update financial activity, billboard purchases, contact information, and billing information;

an ad creation system coupled to the login system for allowing said register user to create new video advertisements within said wireless electronic billboard commerce system to display on at least one of said plurality of electronic billboards; and

an access purchase system that provides a table of billboard information, said table of billboard information includes a listing of available locations, a listing of available time periods, and a listing of prices, said access purchase system searches a database to determine if said electronic billboard is available to display said advertisement at a requested location and a requested time;

a video advertisement stored as a digital file in the database server, said digital file is uploaded to said main computer through said global computer network, said main computer transfers said digital file to said communication system, said communication system transmits said digital file as a signal, said billboard antenna receives said signal, said billboard computer processes said signal, said billboard computer shows said signal on said video display as a video stream.

Claim 12. The apparatus described in claim 11, further comprising a satellite, said satellite receives said digital file from said communication server and transmits said digital file to said billboard antenna.

Claim 13. The apparatus described in claim 11, wherein said display is a flat panel electroluminescent display.

Claim 14. The apparatus described in claim 11, wherein said display is a liquid crystal display.

Claim 15. The apparatus described in claim 11, wherein said display is a light emitting diode display.

Claim 16. The apparatus described in claim 11, further comprising a web-site, said web-site is contained on said main computer, said web-site is accessible on said global computer network.

Claim 17. (Cancelled).

Claim 18. The apparatus described in claim 11, further comprising an upload database, said access purchase system provides an upload code for said digital file when said advertisement is purchased, said main computer accesses said upload database to determine if said upload code is acceptable, said main computer transfers said digital file to said communications system when said upload code is verified.

EVIDENCE APPENDIX

NONE

RELATED PROCEEDINGS APPENDIX

NONE